



March 23, 2000

Mr. Chris M. Borunda
Assistant City Attorney
The City of El Paso
Two Civic Center Plaza
El Paso, Texas 79901

OR2000-1147

Dear Mr. Borunda:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135075.

The City of El Paso ("the city") received a request for an Emergency Medical Services ("EMS") report, a CAD report, a dispatch tape, and a claim filed against the city. You have submitted the responsive EMS report for our review. You have released the remaining requested information. You claim that the EMS report is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Thus, section 552.101 encompasses statutes that govern confidentiality. Section 773.091 of the Health and Safety Code provides, in part:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services

services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

....

(g) The privilege of confidentiality under this section does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services.

Section 773.091(b) thus protects EMS reports from disclosure except for the information specifically listed as not confidential in section 773.091(g). You inform us that the responsive report was created by the El Paso Emergency Medical Services personnel in the course of providing emergency medical services to a patient. Based on your representation and our review of the report, we agree that it represents a record of the identity, evaluation, or treatment of a patient. Therefore, it is subject to section 773.091. You assert that the requestor has failed to establish any exception to confidentiality under chapter 773 of the Health and Safety Code. *See* Health & Safety Code § 773.092. We agree. We therefore conclude that, except for the information specified by section 773.091(g), the contents of the requested report are confidential under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us. Therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Reagan Watson".

Julie Reagan Watson
Assistant Attorney General
Open Records Division

JRW/cwt

Ref: ID#135075

Encl. Submitted Documents

cc: Mr. Andy Seligman
El Paso Times
300 N. Campbell
El Paso, Texas 79901
(w/o Enclosures)